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DISTRICT OF UTAH

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UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
Central DIVISION

Cody Lynn Nielsen
(Full Name)

PLAINTIFF

vs.

*Scott Crowther, Richard Garden,
Ray Merril, Kennon Tubbs,
Janet Welch, Sidney Roberts,
Billie Casper,*

DEFENDANTS

Jane and John Does 1-100

CIVIL RIGHTS COMPLAINT
(42 U.S.C §1983, §1985)

Case: 2:17-cv-00049
Assigned To: Benson, Dee
Assign. Date: 1/19/2017
Description: Nielsen v. Crowther et al

A. JURISDICTION

1. Jurisdiction is proper in this court according to:

- a. 42 U.S.C. §1983
- b. 42 U.S.C. §1985
- c. Other (Please Specify) _____

2. NAME OF PLAINTIFF *Cody Lynn Nielsen*
IS A CITIZEN OF THE STATE OF *Utah*

PRESENT MAILING ADDRESS: *P.O. Box 250 Draper, Ut 84020*

3. NAME OF FIRST DEFENDANT *Scott Crowther*

IS A CITIZEN OF Draper, ut
(City and State)

IS EMPLOYED AS Warden at Utah State Prison
(Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES NO . If your answer is "YES" briefly explain.

See Attached page #1, 12

4. NAME OF SECOND DEFENDANT Richard Garder
(If applicable)

IS A CITIZEN OF Draper, Utah
(City and State)

IS EMPLOYED AS Medical Director at Utah State Prison
(Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES NO . If your answer is "YES" briefly explain.

See Attached page #2, 13, 14

5. NAME OF THIRD DEFENDANT Ray Merriell
(If applicable)

IS A CITIZEN OF Draper, Utah
(City and State)

IS EMPLOYED AS Physician Assistant at Utah State Prison

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1st Defendant Scott Crowther

Is sued herein in his official capacity.

As Director of UDC he is directly responsible for establishing, monitoring, and enforcing overall operations, policies and procedures and practices of the Utah State Prison system, which includes the provisions of adequate medical, mental health, and dental care for ^{all} ~~white~~ prisoners committed to the custody of UDC.

As director he is responsible for decisions regarding Staff hiring, supervision deployment and all training that directly affect my abilities to obtain adequate and necessary health services.

He is also responsible for providing Constitutional Conditions of Confinement in All Custodial units.

At all times relevant hereto, he has acted under color and authority of State law.

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2nd Defendant Richard Garden

Defendant Richard Garden is the Director of the Health care Division and is sued in his official capacity. As Director he is responsible for establishing, monitoring and enforcing system-wide health care practices and policies.

He is directly responsible for establishing, monitoring and for supervising the provision of adequate medical, mental health and dental care for me, while within the custody of the department in all custodial units. At all times relevant hereto, he has acted under color and authority of state law

Page 3

3rd Defendant Ray Merriell

Defendant Ray Merriell is a Physician Assistant and is sued in his official capacity. As a Physician Assistant he is responsible for seeing, me, treating me and monitoring my health.

He is directly responsible for evaluating, treating, monitoring, diagnosing prisoners health care needs, ordering treatments, prescribing medications, scheduling follow-ups, referring to specialists and filing reports.

At all times relevant hereto, he has acted under color and authority of state law.

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4th Defendant Kennon Tubbs

Defendant Kennon Tubbs is a Medical Doctor and is sued in his official capacity.

As a Doctor he is responsible for seeing, treating and monitoring my medical needs.

He is directly responsible supervising P.A.s verifying P.A.s Diagnoses, treatment, medication ordered.

He also is responsible for evaluating, diagnosing, treating, monitoring prisoners medical needs, ordering treatments, prescribing medications, referring to specialist, and filing reports.

At all times relevant hereto, he has acted under color and authority of State law.

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⑦ Name of Fifth Defendant Janet Welch
is a citizen of Draper, Utah
is employed as Secretary at Utah State Prison

~~The Defendant was acting under the authority
or color of state law at the time these claims occurred.~~

5th Defendant Janet Welch

Defendant Janet Welch is a Medical scheduling
Secretary and is sued in her official capacity.

As the Secretary she is responsible for scheduling
my appointments with medical staff and
specialty clinics

She is directly responsible for making sure
I am scheduled to see any specialist doctors
that the prison does refer me to, she is
also responsible for any rescheduling if needed
and to make sure all referrals are followed up

on

At all times relevant here to she has
acted under color and authority of state law

Page 6

- ② Name of Sixth Defendant Sidney Roberts
is a citizen of Casper, Utah
is employed as Medical Doctor at Utah State Prison

The Defendant was acting under the authority or color of State law at the time these claims occurred.

6th Defendant Sidney Roberts

Defendant Sidney Roberts is a Medical Doctor and is sued in his official capacity

As a Doctor he is responsible for seeing, treating and monitoring my medical needs

He is directly responsible for supervising P.A.s, verifying P.A.s diagnosis, treatment, medication ordered. He is also responsible for evaluating, diagnosis, treating, monitoring, my medical needs, ordering treatments, prescribing medications, referring to specialists, and filing reports.

At all times relevant hereto, he has acted under color and authority of State law

Page 7

⑨ Name of Seventh Defendant Billie Casper
is a citizen of Draper, Utah
is employed as Grievance Coordinator at Utah State Prison

The Defendant was acting under the authority or color
of State law at the time these claims occurred.

7th Defendant Billie Casper

Defendant Billie Casper is the Grievance Coordinator
and is sued in her official capacity

As the Grievance coordinator she is responsible for
answering inmate grievances, by sending them to the appropriate
person to answer.

She is directly responsible for making sure my grievances
are answered in a timely manner and they are answered
appropriately. She has the ability to grant grievances and
prevent further delays.

At all times relevant here to, she has acted
under color and authority of State law.

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⑩ Name of Seventh through 17 Defendants John Doe / Jane Doe ..

1 - Through 10

is a citizen of Draper, Utah

is employed as unknown title at Utah State Prison

The Defendants were acting under the authority or
Color of state law at the time these claims occurred.

7th Defendants John Doe / Jane Doe

Defendants John Doe / Jane Doe is employed
at Utah State Prison and is sued in his/her
official capacity once these defendants names are
known they will be included in an amendment to be added
to this suit and being sued according to their actions and
inactions

(Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES NO If your answer is "YES" briefly explain.

see Attached Page # 3, 15, 16, 17

6. NAME OF FOURTH DEFENDANT Kennon Tubb
(If applicable)

IS A CITIZEN OF Ogden, Utah
(city and State)

IS EMPLOYED AS Physician at Utah State Prison
(Position and Title if Any) (Organization)

Was the defendant acting under the authority or color of state law at the time these claims occurred?

YES NO If your answer is "YES" briefly explain.

See Attached Page # 4, 18

(Use additional sheets of paper if necessary.) Defendant 5 through 100 see pages 5-8
19-22

B. NATURE OF CASE

1. Why are you bringing this case to court? Please explain the circumstances that led to the problem.

See Attached page # 9

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Nature of Case Pg 1 of 2

Defendants have promised through written policies and procedures to provide sufficient resources to provide the "Community Standard of health care", but fail to come close to that measure. The Defendants written policies and procedures are not consistently applied, and often leave Plaintiffs at the mercy of whimsical or less than faithful observance of these policies and put, The Plaintiff's health at risk. Defendants are well aware of deficiencies that have caused and continue to cause significant harm and near death to Plaintiff in their custody, yet they have failed to take reasonable measures to ameliorate the impermissible risk of harm and continued suffering.

Defendants have repeatedly ignored warnings of the inadequacies of the health care system and the "level of care" it provides. The great amount of grievances, lawsuits, etc. have provided ample opportunities to address these inadequacies, yet the defendants continue to display willful and fraudulent conduct, deliberate indifference to Plaintiff and his families concern about not providing the requisite levels of adequate, to come close to the "Community Standard of health care".

Policy and practice are terms hereafter used to include unwritten as well as written policies, customs and actual practices of the defendants.

Nature of Case
Continued

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Pg 2 of 2

Plaintiff further posits that he defeats Government Immunity through statutory waiver. Two behaviors state waives immunity for include behavior by state actors in which the actor "acts or failed to act through fraud or willful misconduct." 63G-7-202 (3)(c)(i) Plaintiff asserts the torts of willful misconduct and fraud as elements in this suit that waives immunity for those state actors, as such immunity is waived and all of the Defendants are subject to liability and subsequent judgement. A pre-litigation hearing is required as a matter of law but is also entitled because the Government Immunity Act is waived.

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Count 1

Defendant's actions and/or inactions in providing adequate medical care. Defendants have a policy and practice of failing to provide me as a prisoner Constitutionally guaranteed levels of Medical treatment and are deliberately indifferent to the fact that, that the Systemic failure to do so has resulted in significant injury, and further creates a significant risk of more serious harm and additionally increased levels of pain and suffering as well as cruel and unusual punishment. Specific allegations include delayed treatment, unequal treatment, deliberate indifference to medical needs, Medical malpractice, purposeful delays in what treatment is given and when or if it is given based upon medical cost incurred for said treatment.

Starting in 2011 to date there are approximately 100 incidents where proper medical care/treatment was denied or delayed without regard to pain and/or suffering. As such there would be an additional 100 counts and in an effort to conserve the Courts time these will be presented as a whole in an attached exhibit 4.

Supporting Facts

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Defendant Scott Crowthier

From 2012 to current Warden Scott Crowthier was hired as the Warden at Utah State Prison and was in fact in charge of overseeing and maintaining adequate staff members to provide adequate and proper health care and Mr. Crowthier through his actions or inactions or deliberate indifference has failed to supervise and maintain his Medical Staff and make corrections until after the fact that several incidents took place and death resulted and the Media got involved demanding answers to his oversight. Mr. Crowthier is directly responsible for employee conduct or misconduct and his employees complying within policy standards and as a self governing agency his position carry's more importance in maintaining and insuring the right living conditions in what inmate's exist in and he has failed to do so through his own indifference to my medical needs.

SEE Exhibits 1, 2, 3, 4

Supporting Facts

Page 13

Defendant Richard Garder

On or about 3-18-13 I wrote a letter to Dr. Garder about getting the run around on getting treatment.

On or about 3-20-13 Dr. Garder stated he felt I should try more medication knowing full well only surgery would be successful even after UMC specialist recommended surgery not medication.

On or about 7-10-13 I wrote Dr. Garder a letter concerning about the Prison delaying Surgery until after new fiscal year therefore costing me another \$2,000 when surgery was ordered around 3-18-13

On or about 7-15-13 Dr. Garder responded admitted that some of the delays were the Prisons fault, but I was told "it is what it is" Didn't care about the delays or what their delays cost me

On or about 9-10-13 I wrote Dr. Garder about being denied MRI and Cough treatment

On or about 10-17-13 Dr. Gardens response was physical therapy was sufficient treatment for back without even knowing what was wrong with back ("which did require major surgery") and then stated I had it submitted & ICL for cough, (I don't control what the Doctors do or Treatment its there responsibility to follow up.)

On or about 7-28-14 Dr. Garder assisted assisted in answering a Grievance against himself, undermining the Grievance process and misleading the Person answering the Grievance.

On or about 7-28-14 I wrote a letter to Dr. Garder about Denying Bronchoscope for 6-13-14 and not receiving medication ordered by UMC

On or about 7-14-14 Dr. Garder response, claims UMC Dr. charged order and sent me to another specialist, do mention of Denying medication (Dr. Carr at UMC stated she did not charge her order for Bronchoscope, but in fact the person cancelled it)

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On or about 10-7-14 I wrote Dr. Garden about the MRI I was supposed to have on 10-1-14 but was cancelled. On or about 10-14-14 Dr. Garden response claims they failed to enter into charts so it was cancelled (Even though I was at the MRI machine waiting for the MRI with orders Rec a MRI).

On or about 10-30-14 I wrote Dr. Garden about why I was denied a Bronchoscope when I was already on the table in the OR fully preped and sedation starting all because his Staff was not willing to work.

On or about 10-5-14 Dr. Garden response claims his staff was not notified by UMC. (The officers present state otherwise and I personally along with UMC staff was present when the call was made to Medical Staff at the prison telling them not to wait regardless of UMC pleading how long ("2 years") I had been waiting for a Bronchoscopy)

On or about 2-8-15 I wrote Dr. Garden about delaying and cancelled Back surgery appointments and pulmonary follow ups.

On or about 2-18-15 Dr. Garden response will comply as resources allow. "obviously resources must mean money as that has been the reason for delayed treatment in the past."

On or about 4-24-15 I wrote Dr. Garden why I was not scheduled for surgery when first ordered on 12-9-15, again on 4-13-15 and now being told in May "but never actually took place until 6-4-15 six months after ordered by UMC A.S.A.P.

To date Dr. Garden never answered last letter. Starting in 2011 to date there are approximately 100 incidents where proper medical care/treatment was denied or delayed without regard to pain and/or suffering as such there would be an additional 100 counts and in an effort to conserve the courts time these will be presented as a whole in an attached exhibit. See Exhibits 1, 2, 3 & Exhibit 4 pages 5-9, 12, 13, 14, 15, 29, 30, 36, 37, 38, 51, 54, 55, 57-62, 90, 91, 92

Supporting Facts
Defendant Ray Merrill

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On or about 3-30-2011 P.A. Merrill started treating Mr. Nielsen for a cough that has continued to this day along with Back and Neck pain. Back issue will be addressed first.

On or about 6-21-2012 Mr. Nielsen received a X-ray on his Lower Back and P.A. Merrill sent Mr. Nielsen a memo stating "Back & Neck are stable no changes on X-ray" this was clearly false as the X-ray stated "There is increased anterolisthesis". P.A. Merrill falsely stated results hoping it would let it go and assume nothing was wrong with me, that the pain was in my mind.

On or about 7-23-2012 P.A. Merrill admitted I needed a MRI of my back, but would not order one, as he stated the Prison would only treat 1 issue at a time and as I was being treated for my cough currently, the MRI would have to wait. On or about 8-31-2012 P.A. ~~Merrill~~ denied my MRI request. Then on 11-5-2012 P.A. Merrill ordered a MRI of my neck not my Back which was more concerning at this time. On or about 10-7-2013 Mr. Nielsen was denied a MRI another on 10-28-2013. Then finally on 11-8-2013 a MRI was finally ordered showing increased movement and progression from prior and now resulting in severe disc space height loss. So far over a year of delays, my back increased to severe problems that required Back fusion with permanent damage done. If addressed when first problem arose instead of falsely misleading me and failed to order proper treatment, I most likely would not have had permanent damage but due to the delay over 1 year, I have now suffered permanent life long nerve damage resulting in a lifetime of pain. Due to neglect and unable to recognize a severe medical problem, I have suffered, non-reversible consequences due to medical malpractice at the hands of P.A. Ray Merrill.

3-30-2011 I was being treated for a severe cough that would not respond to treatment due to

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lack of proper diagnoses, after prolong severe coughing and multiple attempts for treatment along with Staff intervention to seek treatment on my behalf. P.A. Merrill admitted that I needed a Bronchoscopy on 3-4-2013 and again on 3-12-2013 but failed to order one. instead I was referred to UMC which did in fact order a Bronchoscope along with a GI scope, But then the Doctor again felt it didn't need to order a Bronchoscope so only a GI Scope was done which showed severe reflux, so surgery was done and "Zofran" was ordered for life for nausea.

On or about 7-15-2013 P.A. Merrill ordered Zofran for a short time and told me to deal with the nausea with diet, as Zofran was expensive and he felt it was not needed so it was denied, even though the specialist stated it needed it for life, because if I was to vomit it would lead my surgically repaired hernia. but P.A. Merrill felt it not important, and again Bronchoscopy was ordered on or about 10-28-13.

P.A. Merrill denied on or about 1-9-14 at a P.A. visit with Merrill I again asked about a Bronchoscopy, and he tried to say, he wasn't aware there was still a problem. at that time Officer Strong got involved and told A.A. Merrill how could he not know as I had been constantly complaining about it at every visit, and as Sherry had been present it is required for security. A.A. Merrill then said he would e-mail Janef and get me treated/referred to UMC. Which I did see UMC on or about 2-28-14 and on or about 3-7-14 I asked P.A. Merrill about the meds UMC ordered and he claimed there was no record of such, yet I did receive some of the meds just not the expensive ones, but was placed on Prednisone.

On or about 4-1-14 P.A. Merrill asked me how long I had been on Prednisone, I replied about ten months

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when you ordered it , A.A. Merrill Failed to even follow UMC notes let alone his own
 On or about 4-18-14 A.A. Merrill wanted to know how long I was supposed to be on Prednisone , T stated I'm not a Doctor nor did I order the medication . Merrill failed to follow basic medical procedure in keeping or maintaining or reading medical records

On or about 5-6-14 A.A. Merrill was to order medication Prednisone and Neurontin which he failed to do and I had to request them again and was seen on 5-16-14 which was when I finally received meds , on or about 7-3-14 UMC again ordered meds and A.A. Merrill Failed to do so claiming he lost the consult notes /orders but yet I was ordered some meds based on my own recollection of UMC orders and Prednisone was ordered and in fact on 6-12-14 UMC stated very clearly "Do Not Stop without taper" as it can have severe withdrawal effects and can be deadly but A.A. Merrill failed to notice or care as on 8-4-14 my Prednisone ran out with no taper I was stopped cold turkey and when I had a Red-Tech notify him , he did nothing about it until 8-18-14 which he was then placed back on them , at no time did A.A. Merrill care if I suffered deadly consequences of drug withdrawal which causes adrenal failure , he never bothered to check on me or make any attempt to do anything instead I suffered for days thankfuly I did not go into adrenal failure , but pain took starting in 2011 to date there are approximately 100 incidents where proper medical care / treatment was denied/delayed without regard to pain and/or suffering . Is such there would be an additional 100 counts and in a effort to conserve the counts time these will be presented as a whole in an attached exhibit 4 see exhibit 1,2,3,4

Supporting Facts

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Defendant Kennon Tubbs

On or about January 2012 when I first started to have issue's with my cough and later my back. Dr. Tubbs was over the P.A.s and in fact the P.A.s practiced medicine under Dr. Tubbs license. Dr. Tubbs was at all times responsible for what P.A.s ordered, Diagnosis, recommendations, etc. and he failed to adequately supervise the P.A.s for proper medical care, he failed to take the time to verify if the treatment or diagnosis was correct or adequate. And in fact I have seen Dr. Tubbs and been denied a MRI on my back or treatment for my cough and was even unaware of the treatment I had received because he failed to review my chart or monitor what the P.A.s under his supervision had been doing. Dr. Tubbs claimed he would order treatments, test, medication, etc. but then he would fail to follow through with them. At this time I do not have the relevant dates or times for each incident as there have been over 60 incidents that have taken place from January 2012 to his termination around 2016.

Through Dr. Tubbs actions or inactions through my denied / delayed medical treatment one could make a reasonable assumption he was showing deliberate indifference to my serious medical needs.

Starting around 2011 to date there are approximately 100 incidents where proper medical care/treatment was denied or delayed without regard to pain and/or suffering. As such there would be an additional 100 counts and in an effort to conserve the counts since these will be presented as a whole in an attached exhibit 4

See exhibits 1 - 4

Supporting Facts

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Defendant Janet Welch

On or about 11-29-12 UMC ordered a Bronchoscope along with a G.I. scope to be done at the same time. Mrs. Welch failed to schedule the Bronchoscope.

On or about 7-17-13 Mrs. Welch failed to enter medical chart from UMC of Medication ordered, therefore I was delayed in receiving medication nor could I be treated as the UMC specialist recommendation.

On or about 11-5-13 On or about 11-18-13 Mrs. Welch cancelled my UMC Appointments with no explanation or valid reason I'm aware of or stated otherwise.

On or about 2-27-14 UMC ordered Medication for me, as stated to me the record was delayed in being entered into system therefore medication and treatment was delayed, Mrs. Welch is responsible for all records.

6-13-14 UMC Scheduled for a Bronchoscope Mrs. Welch cancelled.

On or about 7-3-14 Mrs. Welch either lost or failed to enter UMC Consult orders/Treatment, so I was unable to receive medication at the Prison.

On or about 7-18-14 Mrs. Welch cancelled UMC Appointment no explanation.

On or about 8-1-14 UMC ordered breathing test Mrs. Welch would not authorize.

On or about 9-25-14 UMC noted they had tried 3 times to schedule a Bronchoscope, and been cancelled, Mrs. Welch is the scheduling secretary.

Around 10-1-14 Mrs. Welch cancelled a MRI no explanation.

Around 10-30-14 Mrs. Welch scheduled me for a Bronchoscope at UMC but on a day my doctor was off, so UMC ^{my Doctor} arranged for another Doctor to do the procedure, Mrs. Welch was notified and refused to allow Transport officers to wait, even though I was already on the table and hooked up to all the equipment and sedation was being started.

On or about 12-5-14 Bronchoscope was finally scheduled but due to the prolong delay and possible sedation my Airway was so weak "from the Prolong Coughing and almost 2 year delay in getting scope" I went into Respiratory failure and Cardiac Arrest and had to be revived, so Bronchoscope was not completed as my sic way was to weak.

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On or about 12-9-14 UMC ordered Back surgery A.S.A.P. Due to concern about instability, it was scheduled for 12-29-14 but Mrs Welch cancelled with no explanation.

On or about 2-17-15 UMC again ordered Back surgery, with note that it was previously ordered but was not followed through with, with only explanation of Prison cancelled.

On or about 4-3-15 Mrs Welch cancelled Back Surgery again 2nd time.

On or about 5-11-15 Mrs Welch cancelled Back Surgery again 3rd time.

On or about 5-27-15 Had a Court hearing and the Prison promised the Judge they would not cancel next appointment for Surgery 6-4-15.

On or about 6-12-14 after Back surgery I was returned to the Prison with UPMC orders, for pain medications and suture removal in 10-12 days. Mrs. Welch failed to schedule appointment for suture removal until I complained several times. Sutures finally removed 39 Days after Surgery instead of the 10-12 days therefore creating permanent scar tissue.

On or about 10-6-15 Another UMC Appointment cancelled no explanation.

On or about 12-10-15 Mrs Welch failed to schedule a MRI ordered by UMC so my Neurosurgery Appointment had to be cancelled.

Mrs Welch failed to enter medical charts into M-Track in a timely manner if at all therefore denying/delaying me medical care.

See Exhibits 1, 2, 3, Exhibit 4 pages 20, 21, 22, 23, 28, 31, 32, 38, 47, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 73, 74, 75, 76, 78, 85-92

Supporting Facts

Page 21

Defendant Sidney Roberts

On or about January 2012 when I first started to have issues with my cough and later my back. Dr. Roberts was over the P.A.s and in fact the P.A.s Practice Medicine under Dr. Roberts license. Dr. Roberts was at all times responsible for what P.A.s ordered, Diagnosis, recommendations, etc. and he failed to adequately supervise the P.A.s for proper medical care, he did not take the time to verify if the treatment or diagnosis was correct or adequate and in fact I have seen Dr. Roberts himself and he was unaware of some of the treatments I had received and he himself did not follow up on his own treatments/orders, and had even diagnosed me with illnesses then reversed treatment, then reversed it again, all because he failed to review my chart and review what the P.A.s under his supervision were doing. Dr. Roberts also failed to follow orders/reccomendations from UMC and then would claim he was unaware of such orders or blame someone else for the oversight. At this time I do not have the relevant dates or times as there is over 70 incidents that have taken place since January 2012 and have continued through to this day. Through Dr. Roberts actions for inactions through my denied/delayed medical treatment, one could make a reasonable assumption he was showing deliberate indifference to my serious medical needs.

Starting around 2011 to date there are approximately 100 incidents where proper medical care/treatment was denied or delayed without regard to pain and/or suffering. as such there would be an additional 100 counts and in an effort to conserve the courts time these will be presented as a whole in an attached exhibit 4.

See exhibits 1,2,3,4 Exhibit 4 pages 24,25,56,63,64,77,78,82,83,84,90,94,92

Supporting Facts

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Defendant Billie Casper

On or about 11-25-13 Mrs Casper Denied my level 2 Grievance claiming it was a repeat grievance which it was not and then stated I had surgery to correct the problem and this issue will not be opened at Level 2. Mrs Casper Denied another Level 2 Grievance.

12-19-13 And Just state's its my run of Bad Luck and then states pain medication is sufficient to treat my back pain.

On or about 12-3-14 on another level 2 Grievance she failed to do proper research and instead made up her own version of the incidents even though the Wome D.C. and the Prisons own Lt. Honey stated Different fact is Mrs Casper is not a medical professional and should not be making medical decisions and she delayed medical treatment by refusing to open a level 2 Grievance. She also had the ability to grant the grievance that would have stopped the medical delays and then to state I had surgery and it was my bad luck clearing showing deliberate indifference.

There has been multiple incidents where proper medical care/treatment was denied or delayed without regard to pain and/or suffering and she had the ability to intervene but refused to do so.

See Exhibits 1 ; 2 , 3

C. CAUSE OF ACTION

1. I allege that my constitutional rights, privileges or immunities have been violated and that the following facts form the basis for my allegations: (If necessary you may attach additional pages)

- a. (1) Count I: Deliberate indifference, willfull misconduct, medical malpractice
- (2) Supporting Facts: (Describe exactly what each defendant did or did not do. State the facts clearly in your own words without citing legal authority or arguments.)
-

See Attached page # 11

- b. (1) Count II: Cruel and unusual punishment for denial of recommended treatment, medical malpractice
- (2) Supporting Facts: Same as above but includes denied recommended treatments, etc. as ordered by UMC which caused me undue pain, suffering, cruel and unusual punishment at the hands of the Defendants
-
-

c. (1) Count III: _____

(2) Supporting Facts: _____

D. INJURY

1. How have you been injured by the actions of the defendant(s)?

Monetary damages due to delaying treatment, as every time I reached my \$2,000 yearly copay, treatment was delayed until the next year. Delayed treatment also caused extra scar tissue, and possible permanent nerve damage causing the long pain, the longer treatment was delayed, the more permanent damage was caused

E. PREVIOUS LAWSUITS AND ADMINISTRATIVE RELIEF

1. Have you filed other lawsuits in state or federal court that deal with the same facts that are involved in this action or otherwise relate to the conditions of your imprisonment? YES X / NO _____. If your answer is "YES," describe each lawsuit. (If there is more than one lawsuit, describe additional lawsuits on additional separate pages, using the same outline.)

- a. Parties to previous lawsuit:

Plaintiff(s): Cody Lynn Niclson

- Defendant(s): Scott Crozeth, Richard Gaylor, Ray McRae //
- b. Name of court and case or docket number: Third District Case # 140903654
- c. Disposition (for example: Was the case dismissed? Was it appealed? Is it still pending?) Treatment was denied Summary Judgment Granted
- d. Issues raised: Denial / Delayed Treatment, deliberate indifference

e. When did you file the lawsuit? 7 7 14

Date Month Year

f. When was it (will it be) decided? 4 - 20 - 16

2. Have you previously sought informal or formal relief from the appropriate administrative officials regarding the acts complained of in Part C? YES X / NO . If your answer is "YES" briefly describe how relief was sought and the results. If your answer is "NO" explain why administrative relief was not sought.

I filed several grievances with the prison and was denied at all levels, then I filed with state court to receive the treatment that I was previously denied, which after 1 year in state court I finally received treatment

F. REQUEST FOR RELIEF

1. I believe that I am entitled to the following relief:

To be compensated for the pain and suffering for the extended delay in treatment and also be reimbursed

for Co-pay due to delayed treatment and compensated for
the lasting medical condition caused by delayed treatment, and a order
for treatment that is still being denied

DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he/she is the plaintiff in the above action, that he/she has read the above complaint, and that the information contained therein is true and correct. 28 U.S.C. §1746; 18 U.S.C. §1621.

Executed at Utah State Prison 8-10- 2016.
(Location) (Date)

Lag Nielsen
Signature